

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, FEBRUARY 4, 2003
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 10:08 a.m. The meeting was recessed by Mayor Murphy at 10:49 a.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 10:55 a.m. with all Council Members present. Mayor Murphy recessed the meeting at 12:02 p.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Mayor Murphy at 2:10 p.m. with all Council Members present. The meeting was recessed by Mayor Murphy at 4:00 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 4:12 p.m. with Council Members Zucchet, Lewis, Madaffer, and Inzunza not present. The meeting was recessed by Mayor Murphy at 5:47 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 6:03 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 8:15 p.m.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present

(8) Council Member Inzunza-present

Clerk-Abdelnour/Lane (ek/pr)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Alan Chuculate, Dr. John Hurst, David Jebb and Scot Kemp presented a plaque to the City of San Diego from the Hang Gliding Association to commemorate glider port safety.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:08 a.m. - 10:11 a.m.)

PUBLIC COMMENT-2: **REFERRED TO THE CITY MANAGER**

Henry Olivas requested that if trees are to be planted in Balboa Park, they should be watered on a regular basis and preserved. Mr. Olivas also pointed out the need for paint on some of the buildings in Balboa Park.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:12 a.m. - 10:16 a.m.)

PUBLIC COMMENT-3:

Jarvis Ross commented on the ongoing discussions regarding the Chargers' staying in or leaving San Diego and the agreement the City of San Diego has with the Chargers.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:18 a.m. - 10:21 a.m.)

PUBLIC COMMENT-4:

Noel Neudeck pointed out that Section 8 housing coupons have been distributed to non-American citizens. Mr. Neudeck also expressed his concern that hackers have caused the City of San Diego web site to close down.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:22 a.m. - 10:24 a.m.)

PUBLIC COMMENT-5:

Mike Aguirre commented on the legal services performed by the City Attorney's Office concerning the agreement with the Chargers and the need to hire outside counsel.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. - 10:27 a.m.)

PUBLIC COMMENT-6:

Vic Hooker requested that new legislation be placed on next year's ballot regarding gas prices, the takeover of SDG&E to change the rates, instituting a freeze on rent prices and create rent regulations, and to have a drug-free San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:28 a.m. - 10:30 a.m.)

**PUBLIC COMMENT-7: REFERRED TO THE CITY MANAGER AND
THE CITY ATTORNEY**

Bill Elliot commented on the deal the City struck with the Maryland Hotel last week and the relocation disbursements.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:31 a.m. - 10:32 a.m.)

PUBLIC COMMENT-8:

George Wajda commented on the presence of the needle exchange in North Park and the need to do research on persons obtaining needles in the needle-exchange program.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:34 a.m.)

PUBLIC COMMENT-9:

Billy Paul stated that he is tired of persons coming before the City Council and calling Council Members names. Mr. Paul also commented on revenue-sharing by the NFL and how those revenues are distributed.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:35 a.m. - 10:37 a.m.)

PUBLIC COMMENT-10: **REFERRED TO THE CITY ATTORNEY AND
THE CITY MANAGER**

Michael Sprague commented on the City Heights Project Area Committee, and that candidates for the committee should receive information on the legalities of their election prior to the election.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:38 a.m. - 10:41 a.m.)

PUBLIC COMMENT-11:

Brian Hopson wished to comment on human rights issues with gender-related topics.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:42 a.m. - 10:44 a.m.)

PUBLIC COMMENT-12:

Don Starr commented on the North Park Planning Committee meeting of January 21, 2003. Mr. Starr also commented on the parking structure of the North Park Theatre. Mr. Starr also expressed his concerns regarding 31st Street as the site of the needle-exchange.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:45 a.m. - 10:48 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Comment by Council Member Atkins stating that February 10, 2003, was the City Municipal Employees Association's annual Blood Drive, and that she is honored to be this years Honorary Spokesperson. Council Member Atkins wished to encourage all of the City of San Diego employees that are eligible to give blood, to please do so. For information about the Blood Drive, call Kathleen Cummings of MEA at 619-264-0740. Council Member Atkins noted that this Friday was "National Black HIV and AIDS Awareness Day" in San Diego, and that there are events planned to commemorate the occasion. Following that, Saturday February 8, 2003, San Diego will host its first African American Women's HIV AIDS Conference entitled "Closing the Gap" at the Clarion Hotel next to the site of the downtown ballpark.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:11 p.m. - 2:13 p.m.)

COUNCIL COMMENT-2:

Comment by Council Member Peters regarding being pleased to open the next Little Padres Park by Torrey Pines Elementary School to finish the completion of changing the whole area from dirt to grass. Council Member Peters wished to thank the School District and the Padres in particular for leading that effort. Council Member Peters stated it has been a difficult time in La Jolla for the road project, and that Friday there was back-up like he had never seen. The reason was not related to the project, but a concrete truck that lost hydraulic fluid and they had to close down the highway to one lane. On Saturday a Volkswagen minibus exploded causing more back-up.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:14 p.m. - 2:15 p.m.)

COUNCIL COMMENT-3:

Comment by Council Member Lewis wishing to thank Council Member Atkins for bringing attention to “National Black HIV and AIDS Awareness Day.” Council Member Lewis noted that on Friday at the Malcolm X Library there will be all day events to celebrate “National Black HIV and AIDS Awareness Day.” Council Member Lewis stated that there have been a group of men speaking for the last few weekends at the South East Community Church who call themselves the “100 Black Men United.” This is to address the violence that has been occurring in the 4th Council District in January. So far, the “100 Black Men United Organization” have raised over \$12,000 and part of it will go to Crime-stoppers for information leading to the arrest of suspects. For more information call 619-264-8999.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:15 p.m. - 2:17 p.m.)

COUNCIL COMMENT-4:

Council Member Frye commented that her office has received numerous calls regarding the Mission Valley Tank Farm which is not really a farm, but a site of land that has 29 storage tanks and that the oil companies own and manage. In 1992 the Regional Water Quality Control Board issued a clean-up and abatement order against the Mission Valley Tank Farm asking them to put together a corrective action in order to address contamination from the site. There has been on going clean-up as well, and it is expected to take many years. Council Member Frye also stated that on December 11, 2002, the Regional Water Quality Control Board issued a notice of violation against the Mission Valley Tank Farm for violations to their permit for exceeding the standards that was supposed to be in place to do the clean-up. There were two serious violations with pollutants and five chronic violations for total phosphoreus, and acute and chronic toxicity. The Tank Farm was fined and assessed \$21,000. An assessment is on going regarding any health risks that the public may be exposed to. For more detailed information, Council Member Frye asked that her office be contacted.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:18 p.m. - 2:20 p.m.)

CITY ATTORNEY COMMENT:

The City Attorney wished to state for the behalf of Noel Neudeck, and his Council Member, Council Member Madaffer, that the City Attorney Website was the last to be rebuilt and went on-line this morning. To access that site, go to Sandiego.gov. City Attorney Casey Gwinn noted that the website was a great resource for the public that includes the legal opinions of the City Attorney's Office. Secondly, Mr. Gwinn had the opportunity a week and a half ago to spend two days on the Oprah Winfrey show talking about the San Diego Family Justice Center. As a result of that, the City Attorney's Office has received thousands of e-mails and phone calls from around the country. The way to obtain information about the Family Justice Center is to go to Familyjusticecenter.org. Mr. Gwinn stated that this was the first time in America that victims can go to one place to get all the help they need with services related to family violence. Lastly, on Valentines Day the San Diego Violence Council will host what is called the "Men's Leadership Forum." It is the first in the country bringing together hundreds of men to see how they can be part of the solution to violence; primarily violence to women. The Forum will be held at Paradise Point Resort at Mission Bay starting at 8:00 a.m. hosted by the San Diego Domestic Violence Council.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:21 p.m. - 2:23 p.m.)

CITY MANAGER COMMENT:

City Manager Uberuaga stated that later today he would have a memorandum out to the City Council summarizing some of the service impacts that reducing the budget this year will have, and will address an approximate 20 million dollar shortfall out of the general fund as it relates to revenues this year. The City Manager stated that he would provide a more complete report that is currently scheduled for February 24, 2003, and will be the mid-year budget report.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:24 p.m. - 2:25 p.m.)

ITEM-330: Law Enforcement Guidelines for Possession of Medical Cannabis.

(See Resolution R-283428; Progress Report by the Medical Marijuana Task Force; Memorandum of Law from City Attorney dated 9/19/2002; City Attorney's Report dated 8/31/1999; memorandum from Chief Bejarano dated 10/3/2002; memorandum from Chair Atkins dated 10/16/2002; news articles; press release; Prevention Community Information.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-791) ADOPTED AS AMENDED AS RESOLUTION R-297615

Approving the City of San Diego Law Enforcement Guidelines Regarding Possession of Medicinal Cannabis, in accordance with California Health and Safety Code Section 11362.5 (Medical Use of Marijuana), as approved by the Committee on Public Safety and Neighborhood Services;

Directing the City Attorney to prepare the necessary ordinance(s) to implement these guidelines.

**PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE'S
RECOMMENDATION:**

On 10/16/2002, PS&NS voted 4 to 1 to support the proposed Law Enforcement Guidelines regarding Possession of Medicinal Cannabis with the following amendments:

- A. That these guidelines be enacted as a pilot program, to be reviewed by the Public Safety and Neighborhood Services Committee 24 months after implementation of the voluntary medical cannabis identification card system.
- B. Public smoking shall not be permitted.
- C. Nothing in these guidelines shall authorize a qualified patient or person with an identification card to engage in the public smoking of marijuana:
 - 1) In any place where smoking is prohibited by law;
 - 2) In or within 1,000 feet of the grounds of a school, recreation center, or youth center, unless the medical use occurs within a residence;
 - 3) On a school bus, while in a motor vehicle that is being operated, or while operating a boat.

- D. Caregiver status shall not be conferred upon any individual on parole or probation, or who has a criminal record of serious or violent felonies as defined in the penal code.
- E. Caregiver status shall not be conferred upon a minor.
- F. The maximum number of patients allowed per caregiver shall be 6 (rather than the 12 recommended by the Task Force).
- G. Caregivers shall be required to receive training and instruction in the correct implementation of these guidelines from the City or its designated implementing agency.

(Councilmembers Atkins, Stevens, Frye, and Inzunza voted yea. Councilmember Maienschein voted nay.)

CITY MANAGER SUPPORTING INFORMATION:

California Health & Safety Code Section 11362.5 expressly permits the possession and use of cannabis “for medical purposes, where that medical need is deemed appropriate and has been recommended by a physician”. However, the law does not specify the amount of marijuana that is medically necessary or legal for possession. In the absence of clarity, both patients and doctors have been reluctant to exercise their rights under the law. While county-wide law enforcement agencies have developed arrest and prosecution protocols, these internal policies are not widely disseminated.

Since these guidelines are neither codified nor binding on law enforcement personnel, they fail to serve as notice to well-intentioned citizens who wish to remain law-abiding while exercising their rights as patients.

In response to these concerns, the City Council created the Medical Marijuana Task Force on May 22, 2001 to determine the most efficient way to regulate the use of medical cannabis.

On February 12, 2002, the City Council adopted the recommendations of the Task Force to create a voluntary cannabis patient and caretaker ID card system which would create a process for certifying appropriate medical needs, issuing identification cards to qualifying patients, and providing a 24-hour certification process for law enforcement personnel to verify the validity of any individual ID card.

The possession guidelines proposed by the City’s Medical Cannabis Task Force are designed to provide community standards by which to implement the Compassionate Use Act. The guidelines are proposed to work in concert with the voluntary verification card program. The card would allow the bearer to be in possession of the total amount of processed marijuana recommended by his/her physician for the length of time recommended by the physician, not to

exceed a year's supply or three (3) pounds, whichever is less, without being subject to arrest for possession of marijuana within the jurisdictional limits of the City. Further provisions are made in the guidelines for appropriately designated caregivers.

On October 16, 2002 the PS&NS Committee voted 4-1 to accept the recommendations of the Medical Cannabis Task Force with amendments that prohibited public smoking and further defined eligibility and training requirements for caregiver status.

Russell

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:55 a.m. - 12:02 p.m.; 2:26 p.m. - 8:06 p.m.)

MOTION BY ATKINS TO ADOPT THE RESOLUTION AS AMENDED TO APPROVE THE CITY OF SAN DIEGO LAW ENFORCEMENT GUIDELINES REGARDING POSSESSION OF MEDICAL CANNABIS AS APPROVED BY PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE IN ACCORDANCE WITH THE COMPASSIONATE USE ACT OF 1996 WITH THE FOLLOWING AMENDMENTS:

1. A PATIENT'S RECOMMENDATION FOR MEDICAL CANNABIS MUST BE FROM A PHYSICIAN PRACTICING WITHIN SAN DIEGO COUNTY.
- 2: GROWING MARIJUANA WILL ONLY BE PERMITTED INDOORS OR IN A FULLY ENCLOSED GREENHOUSE OR STRUCTURE THAT IS LOCKABLE AND CONTAINED.
3. THE ALLOWABLE NUMBER OF PLANTS WILL FOLLOW THE INDOOR GUIDELINES PROPOSED BY THE TASK FORCE.
4. THE CITY ATTORNEY IS HEREBY DIRECTED TO PREPARE THE NECESSARY ORDINANCE (S) TO IMPLEMENT THESE GUIDELINES.

TO ACCEPT THE AMENDMENTS TO THE MOTION AS REQUESTED AND STATED BY COUNCIL MEMBER INZUNZA AS FOLLOWS:

TO MOVE THE GUIDELINES AS APPROVED AT PUBLIC SAFETY AND NEIGHBORHOOD SERVICES WITH THE FOLLOWING AMENDMENTS:

- A. ADD TO SECTION I. OF THE LAW ENFORCEMENT GUIDELINES FOR PERSONS MEETING CERTAIN CONDITIONS THE FOLLOWING PARAGRAPH TO ALLOW LAW ENFORCEMENT OFFICER'S DISCRETION ON A CASE-BY-CASE BASIS:

"THESE POLICY GUIDELINES ARE NOT INTENDED TO AND SHALL NOT BE INTERPRETED TO OVERRIDE AN OFFICER'S JUDGMENT AND DISCRETION BASED ON A CASE-BY-CASE EVALUATION OF THE TOTALITY OF THE CIRCUMSTANCES, OR TO INTERFERE WITH THE OFFICER'S SWORN DUTY TO ENFORCE APPLICABLE LAW."

- B. PROCESSED CANNABIS:

PER PATIENT: 1 POUND OR AN AMOUNT CONSISTENT WITH A DOCTOR'S RECOMMENDATION, WHICHEVER IS LESS. (DOWN FROM 3 LBS.)

PER CAREGIVER: 2 POUNDS OR AN AMOUNT CONSISTENT WITH THE DOCTOR'S RECOMMENDED NEEDS OF THE PATIENT (S), WHICHEVER IS LESS. (DOWN FROM 12 LBS.)

- C. PLANTS:

OUTDOOR: NO OUTDOOR PLANTS SHOULD BE PERMITTED.

PATIENT: A MAXIMUM OF 24 INDOOR PLANTS IN A GROWING AREA NOT TO EXCEED 64 SQUARE FEET OR AN AMOUNT CONSISTENT WITH A DOCTOR'S RECOMMENDATION, WHICHEVER IS LESS.

CAREGIVER: A MAXIMUM OF 48 INDOOR PLANTS GROWING IN AN AREA NOT TO EXCEED 94 SQUARE FEET OR AN AMOUNT CONSISTENT WITH THE DOCTOR'S RECOMMENDED NEEDS OF THE PATIENT (S), WHICHEVER IS LESS.

- D. CAREGIVER:

PATIENTS PER CAREGIVER: A CAREGIVER SHOULD BE LIMITED TO 4 PATIENTS.

E. 72-HOUR WAITING PERIOD:

OMIT THE PARAGRAPH REQUIRING A WAITING PERIOD.

F. SMOKING:

SMOKING ANYWHERE IN PUBLIC OR IN PUBLIC VIEW, EVEN ON PRIVATE PROPERTY, SHOULD BE PROHIBITED.

G. PROTECTIONS FOR THE CITY:

DIRECT THE CITY ATTORNEY TO INCLUDE LANGUAGE IN THE PROPOSED ORDINANCE THAT WILL PROTECT AGAINST POTENTIAL CIVIL LIABILITY OF THE CITY BY PASSAGE OF THESE GUIDELINES.

TO ADD TO THE MOTION AS REQUESTED BY MAYOR MURPHY AND READ INTO THE RECORD, PARAGRAPH A, PAGE 1, OF THE PROPOSED CITY OF SAN DIEGO LAW ENFORCEMENT GUIDELINES REGARDING POSSESSION OF MEDICINAL CANNABIS AS FOLLOWS:

“CAREGIVER STATUS SHALL NOT BE CONFERRED UPON ANY INDIVIDUAL ON PAROLE OR PROBATION, OR WHO HAS A CRIMINAL RECORD OR SERIOUS OR VIOLENT FELONIES AS DEFINED IN THE PENAL CODE, OR A FELONY CONVICTION FOR SELLING ANY ILLEGAL DRUG.”

TO ADD TO THE MOTION AS REQUESTED BY COUNCIL MEMBER PETERS AS FOLLOWS:

DURING THE DURATION OF THE TWO YEAR PROGRAM A MID-TERM REPORT IS TO BE PROVIDED TO THE PUBLIC SERVICE AND NEIGHBORHOOD SAFETY COMMITTEE AT ONE YEAR, BUT A SIX MONTH WRITTEN REPORT IN BETWEEN SO AT THE SIX MONTH AND THE 18TH MONTH POINT COUNCIL WILL SEE HOW THE PROGRAM IS GOING. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-nay, Frye-yea, Madaffer-nay, Inzunza-yea, Mayor Murphy-nay.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 8:15 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 8:06 p.m. - 8:15 p.m.)